

Remarks

This Application has been carefully reviewed in light of the Office Action mailed August 16, 2004. Applicants appreciate the Examiner's consideration of this Application and respectfully provide these remarks. Although Applicants believe all claims are allowable without amendment, to expedite issuance of a patent from this Application, Applicants have made clarifying amendments to Claims 1-4, 6, 22-25, 27, and 39-41. Applicants do not consider any of these changes narrowing or necessary for patentability. Applicants respectfully request reconsideration and allowance of all pending claims.

Information Disclosure Statement

Applicants mailed an Information Disclosure Statement (IDS) and accompanying PTO-1449 form on March 7, 2002, but the submitted references were not indicated as considered by the Examiner in this Office Action. Additionally, Applicants mailed a Request for Consideration of an Information Disclosure Statement Timely Filed on August 26, 2004. Applicants respectfully request the Examiner to indicate consideration of the submitted references by initialing next to each reference on the PTO-1449 form. For the Examiner's convenience, copies of the IDS and PTO-1449 form are attached to this Response.

Terminal Disclaimer

The Examiner rejects Claims 1-41 based on the doctrine of obviousness-type double patenting as being unpatentable over Claims 1-76 of U.S. Patent Application No. 09/398,171. Although Applicants do not necessarily agree with the Examiner's statements or conclusions in this regard, a Terminal Disclaimer is attached to obviate this rejection. Applicants respectfully request reconsideration and allowance of Claims 1-41.

Independent Claims 1, 22, and 39-40 are Allowable Over *Kennedy*

The Examiner rejects independent Claims 1, 22, and 39-40 under 35 U.S.C. § 102(a) as being anticipated by PCT Application No. WO 00/17795 to Kennedy et al. ("Kennedy"). *Kennedy* discloses a system for managing ATP data in a supply chain environment. In *Kennedy*, the fulfillment management system receives a component ATP request and then communicates a component ATP request to at least one ATP server. Subsequently, the fulfillment management system in *Kennedy* receives a component quotation from the ATP

server (or servers) and generates a quotation based on the quotation received from the ATP server (or servers).

Kennedy does not disclose at least:

- *a local database operable to store consolidated product availability information associated with at least one product, the consolidated product availability information consolidated from a plurality of ATP servers, the local database separate and distinct from the plurality of ATP servers;*
- one or more processors *coupled to the local database and collectively operable to:*
 - *retrieve from the local database at least a portion of the consolidated product availability information associated with the desired product for each component ATP request, the consolidated product availability information consolidated from the plurality of ATP servers;*
 - determine an ATP response for each component ATP request using the *consolidated product availability information retrieved from the local database, the consolidated product availability information consolidated from the plurality of ATP servers;*
- the *consolidated product availability information stored in the local database enabling the component quotation to be generated and communicated without retrieving product availability information from the plurality of ATP servers* in response to receiving the at least one component ATP request.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” M.P.E.P. § 2131 (quoting *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987)). Moreover, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim.” M.P.E.P. § 2131 (quoting *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989)). Furthermore, “[t]he elements must be arranged as required by the claim.” M.P.E.P. § 2131 (citing *In Re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990)). As shown above, *Kennedy* fails to disclose, either expressly or inherently, each and every limitation recited in independent Claim 1, as the M.P.E.P. and governing Federal Circuit case law require.

For at least these reasons, Applicants respectfully request reconsideration and allowance of independent Claims 1, 22, and 39-40 and their dependent claims.

Independent Claim 41 is Allowable Over the Proposed Modification of *Kennedy*

The Examiner rejects independent Claim 41 under 35 U.S.C. § 103(a) as being unpatentable over *Kennedy*.

Independent Claim 41 recites certain limitations that, as Applicants have shown above with respect to independent Claims 1, 22, and 39-40, *Kennedy* does not disclose. This is not remedied by the Examiner's proposed modification of *Kennedy*, since the Examiner's proposed modification does not concern any of the limitations discussed above.

Independent Claim 41 is allowable for at least this reason. Applicants respectfully request reconsideration and allowance of independent Claim 41.

Conclusion

Applicants have made an earnest attempt to place this case in condition for allowance. For at least the foregoing reasons, Applicants respectfully request full allowance of all pending claims.

If the Examiner believes a telephone conference would advance prosecution of this case, the Examiner is invited to call Christopher W. Kennerly, attorney for Applicants, at 214.953.6812.

Applicants have included a check for \$110.00 for filing a Terminal Disclaimer. Applicants believe that no other fees are due; however, the Commissioner is hereby authorized to charge any other fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicants



Christopher W. Kennerly
Reg. No. 40,675

Date: November 18, 2004

Correspondence Address:

Customer Number: **05073**